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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 BOBBY JOE MILLER,

12 Plaintiff,

13 v.

14 AMADOR COUNTY JAIL,

15 Defendant.
16

No. 2:21-CV-2132-KJM-DMC-P

ORDER

17 Plaintiff, a pretrial detainee proceeding pro se, brings this civil rights action under 42
18 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge as provided by
19 Eastern District of California local rules.

20 On September 12, 2022, the Magistrate Judge filed findings and recommendations, which
21 were served on the parties and contained notice that the parties may file objections within
22 fourteen days after service. Timely objections to the findings and recommendations have been
23 filed.¹

24 Plaintiff does not address the findings and recommendations' legal conclusion that the
25 complaint lacks facts regarding a policy or custom causing plaintiff's injuries. *See* Objs., ECF
26 No. 25. Instead, plaintiff reiterates the three alleged harms that occurred in the jail, while

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28 ¹ Plaintiff's objections have been incorrectly docketed as a first amended complaint.
See ECF No. 25.

1 explaining he lacks access to the law library, which prevents him from responding with legal
2 authorities. *Id.* The court notes plaintiff also raised the lack of access in his opposition to the
3 motion to dismiss. *See* Opp'n at 2, ECF No. 18. In his opposition, plaintiff claimed defendant
4 was intentionally depriving him of access to legal resources, so he needed a court order to obtain
5 access. *Id.* at 3. Plaintiff's remarks could be liberally construed as a request to file a supplement
6 complaint under Federal Rule of Civil Procedure 15(d). *See* Fed. R. Civ. P. 15(d) (allowing
7 supplemental complaint "setting out any transactions, occurrence, or event that happened after the
8 date of the pleading to be supplemented"); *Keith v. Volpe*, 858 F.2d 467, 473 (9th Cir. 1988).
9 Because a supplemental complaint could conceivably state a First Amendment claim for lack of
10 law library access, the court **adopts** the findings and recommendations and expressly **refers** the
11 access issue to the Magistrate Judge for any appropriate proceedings consistent with this order.

12 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304(f), this
13 Court has conducted a *de novo* review of this case. Having reviewed the file, the Court finds the
14 findings and recommendations to be supported by the record and by proper analysis.

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. The findings and recommendations filed September 12, 2022, are adopted
17 in full;
- 18 2. Defendant's motion to dismiss, ECF No. 14, is granted;
- 19 3. Plaintiff's complaint, ECF No. 1, is dismissed with leave to amend;
- 20 4. Plaintiff shall file a first amended complaint within 30 days of the date of
21 this order; and
- 22 5. The matter is referred back to the assigned Magistrate Judge for further
23 proceedings, including assessing plaintiff's request for leave to file a supplemental complaint
24 addressing law library access.

25 DATED: March 31, 2023.

26 
27 CHIEF UNITED STATES DISTRICT JUDGE
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